

WOLLMUTH MAHER & DEUTSCH LLP

William A. Maher

Fletcher W. Strong

Maxwell G. Dillan

500 Fifth Avenue

New York, New York 10110

Tel.: (212) 382-3300

Fax: (212) 382-0050

*Attorneys for Defendant Fairfield Investment Fund Ltd.*

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

In re:

Fairfield Sentry Limited, et al.,

Debtors in Foreign Proceedings.

Chapter 15 Case

Case No. 10-13164 (CGM)

Jointly Administered

Fairfield Sentry Limited (In Liquidation) et al.,

Plaintiffs,

-against-

Theodoor GGC Amsterdam, et al.,

Defendants.

Adv. Pro. No. 10-03496 (CGM)

Administratively Consolidated

Fairfield Sentry Limited (In Liquidation) et al.,

Plaintiffs,

-against-

ABN AMRO Schweiz AG, et al.,

Defendants.

Adv. Pro. No. 10-03635 (CGM)

Fairfield Sentry Limited (In Liquidation) et al.,

Plaintiffs,

-against-

ABN AMRO Schweiz AG, et al.,

Defendants.

Adv. Pro. No. 10-03636 (CGM)

**DECLARATION OF MARK MCKEEFRY**

Pursuant to 28 U.S.C. § 1746, I, Mark McKeefry, hereby declare as follows:

1. I am General Counsel of Fairfield Greenwich Advisors LLC, as investment manager of Defendant Fairfield Investment Fund Ltd. (“FIFL”).
2. I am fully competent to make this declaration and I have personal knowledge of the facts stated in this declaration.
3. This declaration is submitted in support of FIFL’s Motion To Dismiss For Lack Of Personal Jurisdiction.
4. FIFL is an International Business Company organized and existing under the laws of the British Virgin Islands. Attached hereto as Exhibit 1 is FIFL’s Certificate of Incorporation, which shows that FIFL was incorporated in the British Virgin Islands as an International Business Company on July 27, 2000.
5. FIFL’s registered office is located in the British Virgin Islands at c/o Codan Trust Company (B.V.I.) Ltd., Romasco Place, Wickhams Cay 1, P.O. Box 3140, Road Town, Tortola, British Virgin Islands. FIFL has never maintained an office in the United States.
6. Court filings by Irving H. Picard, as trustee for Bernard L. Madoff Investment Securities LLC (the “BLMIS Trustee”), which preceded Plaintiffs’ filing of their Fifth Amended Complaints in Adv. Pro. Nos. 10-03635 and 10-03636, correctly identified FIFL as a foreign

entity. For example, the BLMIS Trustee correctly alleged that FIFL was organized under the laws of the British Virgin Islands in his Amended Complaint filed on July 20, 2010. *See* Am. Compl. ¶ 79, *Picard v. Fairfield Investment Fund Ltd.*, Adv. Pro. No. 09-01239 (Bankr. S.D.N.Y. July 20, 2010), Dkt. No. 23 (FIFL was “created as a British Virgin Islands International Business Company on July 27, 2000, and began operations on July 1, 2004. Its registered office is c/o Codan Trust Company (B.V.I.) Ltd., Romasco Place, Wickhams Cay 1, P.O. Box 3140, Road Town, Tortola, B.V.I.”).

7. On December 10, 2014, the Court filed the Order Concerning Further Proceedings on Extraterritoriality Motion and Trustee’s Omnibus Motion for Leave to Replead and for Limited Discovery [Dkt. No. 8800] and Exhibit A thereto [Dkt. No. 8800-1] (the “Extraterritoriality Scheduling Order”) in the substantively consolidated case entitled *Securities Investor Protection Corp. v. Bernard L. Madoff Investment Securities LLC*, Adv. Pro. No. 08-01789. In the Extraterritoriality Scheduling Order, the BLMIS Trustee stipulated, and the Court so ordered, an agreement that FIFL was organized under the laws of the British Virgin Islands:

- “For each alleged transferor and transferee, Exhibits A and B list as the party’s ‘Location’ the jurisdiction under whose laws the transferors and transferees that are not natural persons are organized . . . .” Extraterritoriality Scheduling Order ¶ M.
- “Fairfield Investment Fund Ltd. (BVI)” *Id.* Exhibit A at 4 (row 3b).

8. Publicly available records of New York state and federal agencies also reflect that FIFL is not a New York entity and has never been registered to do business in New York:

- A search of New York State’s Department of State database of all New York registered entities does not reveal any record of FIFL as being an active or inactive registered entity in New York. *See* Public Inquiry, New York Department of State, <https://apps.dos.ny.gov/publicInquiry/#search>.
- FIFL’s filings on the SEC’s EDGAR database pursuant to Regulation D of the Securities Act of 1933 show that FIFL is a foreign entity with its executive offices

in the British Virgin Islands. *See* Form D for Fairfield Investment Fund, Ltd., available at <https://www.sec.gov/Archives/edgar/vpr/0403/04037648.pdf>.

- A search of the IRS’s FATCA Foreign Financial Institution List shows FIFL as a British Virgin Islands entity. *See* FATCA Foreign Financial Institution List (FFI) Search and Download Tool, <https://apps.irs.gov/app/fatcaFfiList/flu.jsf>.

9. In their Affidavits of Service in Adv. Pro Nos. 10-03635 [Dkt. No. 54] and 10-03636 [Dkt. No. 54], Plaintiffs also represented that they served their Complaints on FIFL by

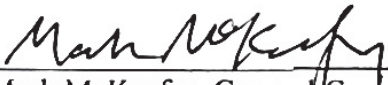
“International Registered Mail” at the following two foreign locations:

- c/o Citco Data Processing Services Ltd., 2600 Cork Airport Business Park, Kinsale Road, Cork, Ireland; and
- c/o Citco Bank Nederland NV, Telestone 8 Teleport, Narritaweg 165, 1043BW Amsterdam, The Netherlands.

**[SIGNATURE PAGE FOLLOWS]**

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: 27 October 2021

  
Mark McKeefry, General Counsel of  
Fairfield Greenwich Advisors LLC,  
as investment manager of Fairfield  
Investment Fund Ltd.

# **EXHIBIT 1**

TERRITORY OF THE BRITISH VIRGIN ISLANDS  
THE INTERNATIONAL BUSINESS COMPANIES ACT  
(CAP. 291)

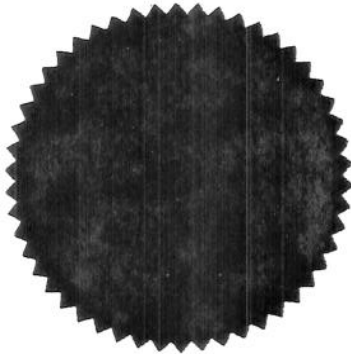
CERTIFICATE OF INCORPORATION (SECTIONS 14 AND 15)

No. 398961

The Registrar of Companies of the British Virgin Islands HEREBY CERTIFIES  
pursuant to the International Business Companies Act, Cap. 291 that all  
the requirements of the Act in respect of incorporation having been satisfied,

FAIRFIELD INVESTMENT FUND LTD.

is incorporated in the British Virgin Islands as an International Business  
Company this 27th day of July, 2000.



Given under my hand and seal at  
Road Town, in the Territory of the  
British Virgin Islands

*[Signature]*  
REGISTRAR OF COMPANIES

CRTI001E